


## ABOUT THE WEEKLY SUMMARY

The Weekly Summary of NLRB cases, as the name implies, is a publication that summarizes each week all published NLRB decisions in unfair labor practice and representation election cases, except for summary judgment cases. It also lists all decisions of NLRB administrative law judges and direction of elections by NLRB regional directors. Links are established from the weekly summary index to the summaries and from the summaries to the full text of the decisions.

 Weekly Summary of NLRB Cases[Index of Back Issues Online](#)

January 17, 1997

W-2565

**CASES SUMMARIZED**

SUMMARIES CONTAIN LINKS TO FULL TEXT

[Automotive Trades District Lodge 190 of Northern California, Machinists District Lodge 160, and Automotive Machinists Lodge 289](#), Oakland, Calif./Tacoma, Wash.

[Carpenters Local 943](#), Tulsa, Okla.

[Coronet Foods, Inc.](#), Wheeling, W.Va.

[Eaton Technologies, Inc., A Fasco Co.](#), Eaton Rapids, Mich.

[Johnstown Corp. and/or Stardyne, Inc.](#), Johnstown, Pa.

[K.B.I. Security Services, Inc.](#), Bridgeport, Conn.

[TEC Electric, Inc.](#), Owosso, Mich.

[Willamette Industries, Inc., Duraflake Division](#), Albany, Oreg.

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*Johnstown Corp. and/or Stardyne, Inc.* (6-CA-22363; 322 NLRB No. 141) Johnstown, Pa. Jan. 6, 1997. The Board reaffirmed its prior decision finding that respondent Stardyne is the alter ego of, or in the alternative, the successor to, respondent Johnstown Corporation (313 NLRB 170 (1993)). In the earlier decision, the Board did not pass on whether Johnstown and Stardyne are a single employer because the issue was immaterial in light of its alter ego finding. In remanding the case, the U.S. Court of Appeals for the Third Circuit found merit in the employers' contention that *Gartner-Harf Co.*, 308 NLRB 531 (1992), conflicts with a finding of alter ego because the companies were not found to be a single employer. In *Gartner-Harf*, the Board found that "alter ego is in effect a subset of the single employer concept (i.e., not all single employers are alter egos, but all alter egos by definition meet the criteria for single employer status." 308 NLRB 533 at fn. 8. In this decision, the Board decided that "alter ego" and "single employer" are related, but separate, concepts. The Board repudiated the statement in *Gartner-Harf* that alter ego is a subset of the single employer concept. [\[TEXT\]](#) [\[PDF\]](#)

(Chairman Gould and Member Fox and Higgins participated.)

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*K.B.I. Security Services, Inc.* (34-CA-6495, 6667; 322 NLRB No. 146) Bridgeport, Conn. Jan. 8, 1997. On remand from the U.S. Court of Appeals for the Second Circuit, the Board remanded the proceeding to the Regional Director to determine the appropriate remedy for the employer's unlawful refusal to recall security guards Orlando Febus and Hector Rosenthal from layoff. The Court declined to enforce the Board's order requiring the employer to reinstate Febus and Rosenthal with backpay (318 NLRB 268 (1995)), noting record evidence and statements by the judge indicating that one or both of the discriminatees may have engaged in theft on the job. [\[TEXT\]](#) [\[PDF\]](#)

(Chairman Gould and Members Browning and Higgins participated.)

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*TEC Electric, Inc.* (7-CA-37522, et al.; 322 NLRB No. 147) Owosso, Mich. Jan. 9, 1997. Upholding the administrative law judge, the Board found that the respondent violated Section 8(a)(1) and (3) of the Act by refusing to hire job applicants James Leenhouts and Daniel Bruesch because of Leenhouts' expressed intent to organize respondent's employees, by threatening to close its operation before it went union, and by failing to reinstate unfair labor practice striker Paul Fryling. [\[TEXT\]](#) [\[PDF\]](#)

(Chairman Gould and Members Browning and Higgins participated.)

Charges filed by Electrical Workers (IBEW) Local 275; complaint alleged violation of Section 8(a)(1) and (3). Hearing at Grand Rapids, Mich., June 18-19, 1996. Decision issued by Adm. Law Judge Martin J. Linsky, Sept. 18, 1996.

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*Carpenters Local 943 (Oklahoma Fixture Co.)* (17-CB-4486; 332 NLRB No. 142) Tulsa, Okla. Jan. 10, 1997. Applying *California Saw & Knife Works*, 320 NLRB 224 (1995), the Board affirmed the administrative law judge's finding that the union violated Section 8(b)(1)(A) of the Act by failing to provide employee Jack Bodenstein, who filed a *Beck* objection, with information to allow him to decide whether to mount a challenge to the union's dues reduction calculations. Concluding that its ruling in *Fred A. Nemann*, 322 NLRB No. 47 (Sept. 30, 1996) did not apply, the Board affirmed the judge's finding that the union violated Section 8(b)(1)(A) by failing to make available to Bodenstein a procedure, consistent with the duty of fair representation, for challenging the amounts of union dues charged, absent waiver of his union-security obligations. [\[TEXT\]](#) [\[PDF\]](#)

(Chairman Gould and Members Browning and Fox participated.)

Charge filed by Jack Bodenstein, an individual; complaint alleged violations of Section 8(b)(1)(A). Hearing at Tulsa, March 7, 1994. Adm. Law Judge Leonard M. Wagman issued his decision July 29, 1994.

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*Coronet Foods, Inc.* (6-CA-21051, et al.; 322 NLRB No. 145) Wheeling, W. Va. Jan. 10, 1997. The Board affirmed the administrative law judge's supplemental decision subject to severing two issues; ordered the employer to make whole 24 individuals and the Estate of Michael Fazio by paying them amounts totaling \$1,253,228; and remanded the two severed issues to the judge for further findings, conclusions, and recommendations, i.e., whether employees Richard Melvin, Mark Hilliard, and Randall Reed incurred equipment and moving expenses during the backpay period and are entitled to reimbursement, and the amount of the reduction to the backpay of employee Arley Nemo for interim employment travel expenses. The Board ordered in 1991 that the employer restore its transportation department and reinstate and make whole certain of its former employees. 305 NLRB 79. By judgment entered January 5, 1993, the U.S. Court of Appeals for the District of Columbia Circuit enforced the backpay provisions of the Board's order. 981 F.2d 1284. [\[TEXT\]](#) [\[PDF\]](#)

(Members Browning, Fox, and Higgins participated.)

Hearing held at Wheeling, July 17-21 and Oct. 16-18, 1995. Adm. Law Judge Steven M. Charno issued his supplemental decision April 19, 1996.

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*Willamette Industries, Inc., Duraflake Division* (36-RC-5742; 322 NLRB No. 151) Jan. 10, 1997. Members Browning, Fox, and Higgins granted the employer's request for review of the Acting Regional Director's decision and direction of election solely with respect to the direction of a mail ballot election, denied the employer's request for review in all other respects, reversed the Acting Regional Director's direction of a mail ballot election, and directed that a manual election be conducted. The employer's motion to say the election is moot. Members Browning, Fox, and Higgins wrote: "The sole factor cited in favor of a mail ballot, that the Employer's facility is approximately 80 miles from the Board's office, alone is insufficient to justify a departure from the normal manual election procedure in light of the fact that the unit employees work at a single site." [\[TEXT\]](#) [\[PDF\]](#)

Chairman Gould concurred in the majority opinion "because there is nothing in the record from which one could conclude that the Acting Regional Director's ordering of a postal ballot would constitute an efficient use of Board resources." The Chairman added: "Accordingly, the record does not establish that the resources of the Regional Office have been burdened. Presented with a record establishing such a burden, I would conclude that the Acting Regional Director did not abuse his discretion in ordering a postal ballot. But those facts are not presented in this record."

(Chairman Gould and Members Browning, Fox, and Higgins participated.)

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*Automotive Trades District Lodge 190 of Northern California, Machinists District Lodge 160, and Automotive Machinists Lodge 289* (32-CD-147; 322 NLRB No. 143) Oakland, Calif. and Tacoma, Wash. Jan. 10, 1997. The Board decided that employees represented by Automotive Trades District Lodge 190 of Northern California, Machinists District Lodge 160, and Automotive Machinists Lodge 289 (IAM), rather than those employees represented by the Longshoremen's and Warehousemen's International, are entitled to perform the work functions involving the gate inspection of inbound and outbound containers and trucking equipment at the Port of Oakland, California and the Port of Tacoma, Washington. [\[TEXT\]](#) [\[PDF\]](#)

(Chairman Gould and Members Browning and Fox participated.)

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*Eaton Technologies, Inc., A Fasco Co.* (7-CA-37714; 322 NLRB No. 148) Eaton Rapids, Mich. Jan. 10, 1997. The Board, affirming the administrative law judge, held that the respondent violated Section 8(a)(1) and (3) of the Act by coercively questioning employees about their union activity, by threatening employees with retaliation because they engaged in protected activity, by discriminatorily removing and destroying union literature or otherwise disparately enforcing its bulletin board policy, and by placing an employee on involuntary leave status because of her union activities. [\[TEXT\]](#) [\[PDF\]](#)

(Chairman Gould and Members Browning and Higgins participated.)

Charges filed by United Auto Workers Region 1-C; complaint alleged violations of Section 8(a)(1) and (3). Hearing at Lansing, Mich. on April 10, 1996. Adm. Law Judge Judith Ann Dowd issued her decision on Aug. 26, 1996.

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### LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES

*Pioneer Recycling Corp.* (Teamsters Local 813) New York, N.Y. Jan. 8, 1997. 2-CA-27923, 28010; JD(NY)-90-96, Judge Steven Davis.

*Pacific Custom Materials, Inc.* (Longshoremen ILWU Local 6) Port Costa, Calif. Jan. 3, 1997. 32-CA-15271, 15498; JD(SF)-01-97, Judge Jay R. Pollack.

*Sanitary Fill Co.* (an individual) San Francisco, Calif. Jan. 3, 1997. 20-CA-27139; JD-(SF)-02-97, Judge Earle Dean V.S. Robbins.

*Voltec, Inc.* (Operating Engineers Local 95) Pittsburgh, Pa. Jan. 3, 1997. 6-CA-27384, et al.; JD-200-96, Judge Harold Bernard, Jr.

*Fredon Corp.* (an individual) Mentor, Ohio Jan. 3, 1997. 8-CA-27797; JD-201-96, Judge Marvin Roth.

*Paperworkers Local 1048* (an individual) Louisville, Ky. Jan. 6, 1997. 9-CB-9308; JD-199-96, Judge Michael O. Miller.

*Ionics, Inc.* (Teamsters Local 404) Springfield, Mass. Jan. 3, 1997. 1-CA-34338, 1-RC-20467; JD-202-96, Judge Arline Pacht.

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### NO ANSWER TO COMPLAINT

*(In the following case, the Board granted the General Counsel's motion for summary judgment based on the respondent's failure to file an answer to the complaint.)*

*M.C. Delta Contracting* (7-CA-33973, 16433; 322 NLRB No. 140) Clarkston, Mich. Dec. 31, 1996.

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### TEST OF CERTIFICATION

*(In the following case, the Board granted the General Counsel's motion for summary judgment on the ground that the respondent has not raised any representation issue that is litigable in this unfair labor practice proceeding. The case did not present any other issues.)*

*Novotel New York Hotel* (2-CA-29660, 16433; 322 NLRB No. 121) New York, N.Y. Dec. 16, 1996.

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**NATIONAL LABOR RELATIONS BOARD  
DIVISION OF INFORMATION  
WASHINGTON, D.C. 20570**

January 14, 1997

**NOTICE OF PRICE CHANGE**  
**NLRB RULES AND REGULATIONS AND**  
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